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6 Attorneys for Defendants  
7 GIOVANA BORGNA,  
8 JAMES YAMASHITA, and  
9 CITY OF OAKLAND

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 ORLANDO MCQUARTERS,

13 Plaintiff(s),

14 v.

15 OAKLAND POLICE OFFICER GIOVANA  
16 BORGNA, ET AL.,

17 Defendant(s).

Case No. 22-CV-03679-VC

**DEFENDANTS CITY OF OAKLAND,  
GIOVANA BORGNA, AND JAMES  
YAMASHITA'S REQUEST TO  
CONTINUE SETTLEMENT  
CONFERENCE AND ORDER (AS  
MODIFIED)**

1 Pursuant to the Court's Notice of Settlement Conference and Settlement Conference  
2 Order filed November 4, 2022 (Dkt. No. 16), Defendants City of Oakland, and Officers  
3 Giovana Borgna and James Yamashita, through their attorney, Hans Moore, respectfully  
4 request to continue the settlement conference currently scheduled for January 31, 2023.  
5 Defendants seek a continuance to a date convenient to the court and all parties.

6 The case is not currently at issue, due to the recent filing of an amended complaint, and  
7 a pending motion to dismiss which is set to be heard on February 16, 2023. Several other  
8 recently-named defendants have not yet been served. The unsettled state of the pleadings is  
9 compelling reason for a continuance. Counsel for Defendants has sought to confer with  
10 Plaintiff's counsel regarding this issue but as of the time of this filing has received no response.

11 As additional background, on December 11, 2022, Plaintiff filed a Motion for Leave to  
12 Amend Plaintiff's Complaint.

13 On December 27, 2022, Defendant Giovana Borgna filed Defendant's Statement of  
14 Non-Opposition to Plaintiff's Motion for Leave to Amend Complaint.

15 On December 29, 2022, Plaintiff filed a First Amended Complaint adding defendants  
16 City of Oakland and Oakland Police Department (OPD) Officers Scott Lamphier, James  
17 Yamashita, and Alexander Molina.

18 On January 12, 2023, pursuant to Rule 12(b)(6), Defendants City of Oakland and James  
19 Yamashita filed a Motion to Dismiss Plaintiff's First Amended Complaint. Defendants' motion  
20 to dismiss is scheduled to be heard on February 16, 2023 at 10:00 a.m. before Magistrate Judge  
21 Thomas S. Hixson. To Defendants' knowledge, Defendants Scott Lamphier and Alexander  
22 Molina have not yet been served.

23 On January 13, 2023, undersigned defense counsel sought Plaintiff counsels' position  
24 regarding filing a motion to continue the settlement conference scheduled on January 31, 2023.  
25 As of the time of this filing Plaintiff's counsel have not responded.

26 As a result of the unsettled pleadings and newly added defendants - some who have yet  
27 to be served - it is not possible to have a productive settlement conference on January 31<sup>st</sup>.  
28 Therefore, Defendants City of Oakland and Officers Borgna and Yamashita respectfully

request this Court continue the settlement conference to a future date.

Finally, continuing the settlement conference would not prejudice any of the parties in this case or requiring the altering of any other deadline. The parties have been ordered to complete a settlement conference by September 21, 2023.

Dated: January 23, 2023

Respectfully submitted,

BARBARA J. PARKER, City Attorney

/s/ Hans I. Moore

By:

HANS I. MOORE, Deputy City Attorney

Attorneys for Defendants

CITY OF OAKLAND, GIOVANA BORGNA, and  
JAMES YAMASHITA

**ORDER (AS MODIFIED)**

Defendants CITY OF OAKLAND, GIOVANA BORGNA, and JAMES YAMADHITA having shown good cause supporting therefore Defendants request for a continuance of Settlement Conference is hereby granted, and the Settlement Conference scheduled for January 31, 2023 is vacated. Magistrate Judge Donna M. Ryu will conduct another settlement planning call on February 22, 2023 at 9:30 a.m. Counsel will receive call-in credentials by email.

IT IS SO ORDERED AS MODIFIED.

Dated: January 24, 2023

